

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
3073

In Re Application Of: SCHMIDL, J.

Application No.
10/505,378Filing Date
08/20/2004Examiner
PREVIL, D.Customer No.
278Group Art Unit
2636

Confirmation No.

Invention: DANGER WARNING SYSTEM

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on
JUNE 18, 2007

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Dated: AUGUST 20, 2007

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(Date)


Signature of Person Mailing Correspondence

MICHAEL J. STRIKER

Typed or Printed Name of Person Mailing Correspondence

CC:



UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: Previl, D.

Art Unit: 2636

In re:

Applicant: SCHMIDL, J.

Serial No.: 10/505,378

Filed: August 20, 2004

BRIEF ON APPEAL


August 17, 2007

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Sirs:

This is a Brief on Appeal from the final rejection of claims 104 by
the Examiner.

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On 8/20/07


Real Party of Interest

The real party of interest in this case is Robert Bosch GmbH having a business address of Postfach 30 02 20, D-70442 Stuttgart, Germany.

Related Appeals and Interferences

There are no pending appeals, interferences, or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

Status of Claims

The present application contains claims 1, 2, 3 and 4. All above listed claims, namely claims 1-4, are rejected by the Examiner. These rejected claims 1-4 are being appealed.

Status of Amendments

On May 17, 2007, a Final Office Action was issued by the Examiner in this application. On June 5, 2007, appellant filed an Amendment subsequent to the Final Office Action.

Summary of Claimed Subject Matter

The present invention deals with a danger warning system.

The inventive danger warning system has a central station identified with reference numeral 1 and a plurality of modules 2, 4, 5, 6, 7, and 8. The central station 1 is connected with the modules 2, 4, and 5 via a series connection 3. The central station 1 is also connected with modules 6, 7 and 8 via a further connection 9. This is disclosed in lines 16-27 on page 3 of the specification and shown in Figure 1.

In the central station, means are provided for determining a distance between the central station 1 and the modules 2, 4, 5, 6, 7 and 8 to determine an installation side of each of the modules in the system. The central station with this means includes elements 10-80, as explained in lines 29-31 on Page 3 and in lines 1-23 on Page 4, and shown in Figure 2.

In the inventive danger warning system the modules 2, 4, 5, 6, 7, 8 are triggered in the central station 1 and energy store C is charged in the central station, and the means for determining the distance evaluate the charging time of the energy store C which is indicative of the installation side of each of the modules. This is explained in lines 25-31 on page 4 and lines 1-6 on page 5, and shown in Figure 2.

The above mentioned features of the danger warning system of the present invention are defined in claim 1, the broadest claim on file.

Claims 2-4 define additional features of the present invention, and they are patentable because they include the above mentioned features of claim 1.

Grounds of Rejection to be Reviewed on Appeal

In the Final Office Action the Examiner rejected claims 1-4 under 35 U.S.C. 103(a) as being unpatentable over the U.S. patent to Muggli, et al in view of the U.S. patent to Lewis, et al.

Therefore the only ground of rejection to be reviewed on appeal is whether claims 1-4 can be considered as rejectable under 35 U.S.C. 103(a) over the U.S. patent to Muggli, et al in view of the U.S. patent to Lewis, et al.

Argument

Argument related to the only ground of rejection to be reviewed, namely the rejection of claims 1-4 under 35 USC 103(a) over the U.S. patents to Muggli et al and Lewis et al.

In the inventive danger warning system with a central station and modules connected via at least one series connection, means are provided in the central station for determining a distance between the central station and the modules to determine an installation site of each of the modules, and these means evaluate a charging time of the energy store when the modules are

triggered by the central station and the energy store is charged in the central station, which charging time of the energy store is indicative of the installation site of each of the modules.

Turning now to the references applied by the Examiner and in particular to the patent to Muggli, et al, it is believed to be clear that the Examiner admitted that this reference did not disclose means provided in the central station for determining a distance between the central station and modules to determine an installation site of each of the modules in the system, wherein the modules are triggered by the central station such that an energy store is charged in the central station, and whereby the means for determining the distance evaluate the charging time of the energy store, which charging time is indicative of the installation site of each of the modules. The Examiner however indicated that the patent to Lewis disclosed these features. Appellant has to respectfully disagree with this position for the following reasons.

The patent to Lewis discloses that capacitors (10) of the sensors (5a to 5e) are charged to the voltage which is applied to the sheath by the base station (4), as explained in column 2, lines 47-49. With all capacitors fully charged, a monitoring sequence is triggered, as explained in column 2, lines 57-59. The purpose of the capacitors (10) of the sensors (5a to 5e) is to assure the power supply of the sensors (5a to 5e) during the monitoring sequence.

In the patent to Lewis the base station does not comprise capacitors. Instead, the base station (4) is a power supply. The purpose of the base station (4) is to charge in the capacitors (10) of the sensors (5a to 5e). Therefore, the patent to Lewis does not disclose that an energy store is charged in the central station. Furthermore, the patent to Lewis does not disclose that the charging time is evaluated. Instead, this reference only discloses that the intervals between the measurements are sufficiently long so that the capacitors (10) are fully charged, as explained in column 2, lines 49-56. The evaluation does not take place. Therefore it is believed to be clear that the patent to Lewis does not disclose means for determining the distance evaluating the charging time which is indicative of the installation cite of each of the modules. Moreover, the patent to Lewis does not disclose determining a distance between the central station and the modules, to determine an installation site of each of the modules in the system.

In view of the above presented analysis, it is believed to be clear that the patent to Lewis does not teach the new features of the present invention as now defined in claim 1.

As for the combination of the references proposed by the Examiner in his rejection of the claims based on obviousness, it is respectfully submitted that none of the references teach the new features of the present invention as defined in claim 1. Therefore, a combination of the references would not lead to

the applicant's invention since a hypothetical construction produced from such a combination would not be identical to or make obvious the danger warning system of the present invention as defined in claim 1.

In order to arrive at the appellant's invention as defined in claim 1 from the combination of the references, the references have to be fundamentally modified by including into them specifically the features which were first proposed by the applicant. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals, which for example, held in its decision in *re Randol and Redford* (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

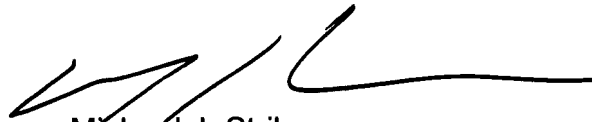
Definitely, the references do not contain any hint or suggestion for such significant unobvious modifications.

In view of the above presented remarks and amendments, it is believed that claim 1 should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1, they share its allowable features, and they should be allowed.

Reversal of the Examiner's rejection of the claims allowance of the present application is most respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', with a long horizontal flourish extending to the right.

Michael J. Striker
Attorney for Applicants
Reg. No. 27233

CLAIMS APPENDIX

1. A danger warning system with a central station and modules connected via at least one series connection, whereby means are provided in the central station for determining a distance between the central station and the modules to determine an installation site of each of the modules in the system, wherein the modules are triggered by the central station such that an energy store is charged in the central station, whereby the means for determining the distance evaluate the charging time of the energy store which is indicative of the installation site of each of the modules.

2. The danger warning system as recited in Claim 1, wherein the energy store is a capacitor, wherein the voltage is monitored via the capacitor using a comparator circuit, and a counter for measuring the charging time is provided, wherein the series connection is configured as a chain of resistors.

3. The danger warning system as recited in Claim 1, wherein switches are provided that can switch the energy store between an operating phase and a discharge phase.

4. The danger warning system as recited in Claim 1, wherein means are provided for performing a reference measurement of the energy store.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

There are no decisions rendered by the board in any proceedings pursuant to paragraph "Related Appeals and Interferences" of the Brief on Appeal".